



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Color Country District Office

Cedar City Field Office

176 East DL Sargent Drive

Cedar City, UT 84721

Telephone (435) 586-2401

www.blm.gov/ut/st/en/fo/cedar_city.html



In Reply Refer To:

UTC01

3809: UTU-71326

RECEIVED

MAR 04 2013

February 27, 2013

DIV. OF OIL, GAS & MINING

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

#7012 0470 0002 4070 4910

DECISION

Operator:
David Penney
Penney's Gemstones, LLC
2400 E 30 S
P.O. Box 312
Beaver, UT 84713-0312

Notice: UTU-71326
Project Name: Sliver 1 & 2

Notice Expired Reclamation Required

Notice UTU-71326 was filed with this office in November 1993, and acknowledged as complete via letter dated December 9, 1993. Following the implementation of the new 43 CFR 3809 regulations, effective January 21, 2001, the notice was timely extended and reclamation bonded by the regulatory deadline of January 21, 2003. In compliance with section 3809.333 of those new regulations (requiring that an operator wishing to extend their notice must notify the BLM in writing on or before the two-year anniversary date of the notice), you timely re-extended the notice on or before the two-year anniversary date of the 2003 date, in 2005, 2007, 2009 and 2011. This office did not receive written notification to extend the UTU-71326 notice on or before the 2013 anniversary date of January 21, 2013; consequently, your notice expired on January 22, 2013.

Pursuant to 43 CFR 3809.335, you must immediately cease all operations with the exception of reclamation. A reclamation plan and schedule must be submitted within 30 days of receipt of this decision. The reclamation plan and schedule must be accepted prior to any work commencing on the ground.

Your reclamation obligation continues beyond the expiration of your notice until such time as BLM determines that the reclamation is satisfactorily completed. Failure to begin reclamation promptly or to conduct reclamation to BLM specified standards is subject to the enforcement actions specified in 43 CFR 3809.601 to 43 CFR 3809.701

If you want to continue mining activity at this site you must submit a plan of operations within 30 days of receipt of this decision. The information that must be included in the plan of operations is listed in 43 CFR 3809.401. If you want to continue exploration activity at this site then a new notice

must be filed within 30 days of receipt of this decision. The information required for submission of a complete notice is found at 43 CFR 3809.301. The plan of operations must be approved or the notice accepted and a financial guarantee accepted prior to any additional earth disturbing activities occurring at this site.

If you fail to submit a reclamation plan and schedule or a new notice or a new plan of operations for the outstanding disturbances at this site you will be in noncompliance. A noncompliance order will be issued and appropriate enforcement actions taken.

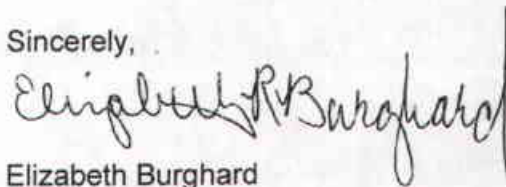
If you are adversely affected by this decision, you may request that the Utah BLM State Director review this decision. If you request a State Director Review, the request must be received in the Utah BLM State Office at P.O. Box 45155-0155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, UT 84721 which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed in this office at Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, UT 84721 within 30 days from receipt of this decision. As the appellant you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 that contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Sincerely,



Elizabeth Burghard
Field Office Manager

Enclosure: Reclamation Standards for Cedar City Field Office
cc: Peter Brinton, DOGM (UDOGM file S/001/0057)

RECLAMATION STANDARDS
for
Exploration/Mining Activities, BLM Cedar City Field Office

1. At the earliest feasible time, the operator will reclaim the area disturbed, except to the extent necessary to preserve evidence of mineralization. Reclamation will include reasonable measures to prevent or control onsite and offsite damage of public lands.
2. Reclamation will include but not be limited to:
 - a. Saving topsoil (top 3 to 6 inches) for final application after reshaping of disturbed areas.
 - b. Controlling erosion, landslides, and water runoff.
 - c. Isolating, removing, or controlling toxic materials.
 - d. Reshaping disturbed areas, applying topsoil, and revegetating where reasonably practicable.
 - e. Controlling noxious weeds invading the site.
 - f. Rehabilitating fisheries and wildlife habitat.
3. Access roads, unless otherwise approved by the authorized officer, will be closed by reshaping the disturbed area to near original contours, scarifying where compaction prevents seed covering, and revegetating with the mixture specified below. Water bars will be placed on steep inclines and access blocked to future vehicular traffic.
4. Unless otherwise approved in the acceptance of the notice, all high walls or material piles will be recontoured to slopes not steeper than 3:1 and revegetated using the recommended mixture.
5. Authorized pits with high walls in excess of 4 feet will be fenced or barricaded to protect unsuspecting public land users from injury. All shafts and adits will be covered or blocked to prevent unauthorized or accidental entry.
6. Seeding of disturbed areas will be done between September 30 and December 15. Seed should not be placed on top of deep snow. Seed beds will be prepared to a depth of 6 inches by ripping, discing, or harrowing. Seed will be planted with a rangeland or farm drill or broadcast seeded. If broadcast seeded, the seed will be harrowed or raked $\frac{1}{4}$ to $\frac{1}{2}$ inch into the soil. The seed amount described below will be doubled if the area is broadcast seeded. The recommended seed mixture to be used on all disturbed areas if applied by a drill includes:

Blue-bunch wheatgrass	2 lb / acre
Indian ricegrass (var. Nezpar)	1 lb / acre
Smooth brome grass	1 lb / acre
Pubescent wheatgrass	1 lb / acre
Small Burnet	1 lb / acre
Fourwing saltbush	$\frac{1}{2}$ lb / acre
Bitterbrush	$\frac{1}{2}$ lb / acre
Lewis Flax	$\frac{1}{2}$ lb / acre
Palmer Penstemon	$\frac{1}{2}$ lb / acre
7. All hazardous tailing dumps, materials or substances produced by the operation will be disposed of in accordance with applicable federal and state laws. All waste, debris, buildings, and materials will be removed from the site and deposited at appropriate waste facilities.
8. All dry drill holes will be plugged with uncontaminated native material to a depth of 5 feet. The top 5 feet will be plugged with cement. Drill holes which encounter water will also be cemented from at least 50 feet below to 50 feet above the saturated zone. The location, depth, and relative flow rate of any subsurface water encountered will be reported to the authorized officer.
9. Additional reclamation requirements may be needed on a case-by-case basis. These additional requirements will be issued by the authorized officer after consultation with the operator.
10. The authorized officer will be notified within 10 days of final reclamation.